IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 67(M/S)/ 2002

1. Sri Satpal Singh Chauhan S/o Sri Hari Singh
   R/o Vill. & P.O. Aghope, District Ambala (Haryana)
2. Sri Pradeep Singh Chauhan S/o Sri Kira Singh
   R/o Vill. & P.O. Aghope, District Ambala (Haryana)
3. Smt. Saroj Kanwar S/o Sri Pradeep Singh Chauhan
   R/o Vill. & P.O. Aghope, District Ambala (Haryana)

…Defendants/Petitioner

Versus

1. Km. Surender Kaur D/o Late Sardar Lal Singh, R/o 370 Diksan Road Apartment, 711 Western Ontario, Canada through Attorney (alleged) Sri Ravinder Singh S/o Late S. Balwant Singh R/o F-3 Vast UP, Kailash New Delhi.

……. Plaintiff/Respondent

2. Sri Gyanpreet Singh S/o Sri Anand Jit Singh, R/o Vill. & P.O. Machhipada Distt: Ludhiana (Punjab).
3. Sri Islam Ahmed S/o Sri Yamin Ahmed R/o Vill. & P.O. Khadrawale, Distt: Muzaffarnagar.
4. Sri Ram Kishan Bhatia S/o Sri Jagan Nath Bhatia, R/o Subhash Nagar, Distt: Dehradun.

……Proforma Respondents

24.04.2006

Sri Arvind Vashisth, Learned counsel for the petitioner,
Sri B.P. Nautiyal & Sri V.B.S. Negi, learned Counsels for the respondents.

Hon'ble Rajesh Tanon, J.

Heard Sri Arvind Vashisth, Counsel for the petitioner and Sri B.P. Nautiyal & Sri V.B.S. Negi, Counsels for the respondents.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 24.11.2001 passed by IV A.D.J. Dehradun and the order 21.07.1998 passed by the Civil Judge (S.D.), Dehradun.

Briefly stated according to the case of the petitioner, respondent no.1 has filed a suit no. 175/1991 in the Court of Civil Judge (Sr. Div.) with a prayer of permanent injunction restraining the defendants from raising any construction over the disputed property. During the pendency of the suit the amendment application was filed. The amendment was heard and decided by

the order dated 21.07.1998. Civil judge has allowed the amendment application. The petitioner has opposed the amendment application on the ground that the amendment is time barred and nature of the suit can be permitted to change.

The petitioner has preferred the revision before District Judge, Dehradun. The revision has been decided against the petitioner on 24.11.2001.

The matter therefore is sent back to the Civil Judge (S.D.) for deciding the suit of the petitioner within a period of four months from the production of the certified copy of the order. However, it will be open to the petitioner to file the reply of the amended plea and the same shall be decided in accordance with law.

Subject to the aforesaid observations, writ petition is dismissed. No order as to costs.

(Rajesh Tandon, J.)

24.04.2006
Jain